

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

LARRY PORTER,

Petitioner,

-against-

9:03-CV-1299  
(LEK/GJD)

MICHAEL P. MCGINNIS,  
Superintendent, Upstate Correctional Facility,

Respondent.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on August 31, 2007 by the Honorable Gustave J. DiBianco , United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 29). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Larry Porter, which were filed on September 17, 2007. Objections (Dkt. No. 30).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id. This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 29) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

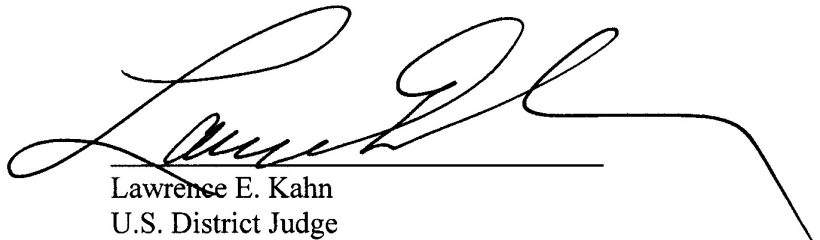
**ORDERED**, that Petitioner's Petition for a writ of habeas corpus (Dkt. No. 1) is **DENIED** and **DISMISSED**; and it is further

**ORDERED**, that the Clerk of the Court shall **CLOSE Case Number 9:03-CV-1299 (LEK/GJD)**; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: September 24, 2007  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge